

IN THE MATTER OF
THE APPLICATION OF
FINN RAMSLAND

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BEFORE THE

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HOWARD COUNTY

FOR A CERTIFICATE OF APPROVAL
FOR EXTERIOR ALTERATIONS AT
6060 OLD LAWYERS HILL ROAD
ELKRIDGE, MARYLAND

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HISTORIC PRESERVATION

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COMMISSION

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Case No. 20-17

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DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on May 7, 2020 to hear and consider the application of Finn Ramsland, (“Applicant”), for Certificate of Approval to make exterior alterations at 6060 Old Lawyers Hill Road, ElkrIDGE, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Eileen Tenor, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the May 7, 2020 Commission meeting; (5) the Lawyer’s Hill Historic District Design Guidelines, 1995 (the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

This property is located in the Lawyers Hill Historic District and is also listed on the Historic Sites Inventory as HO-447, Maycroft.

In December 2019, the Applicant was approved in case HPC-19-59 for the pool coping, waterline tile, pool lining, mechanical equipment and the layout of the site plan flipped 180 degrees (which was supplemented with a site plan submitted to and approved by staff – the site plan only provided information on the orientation of the pool).

B. Proposed Improvements

The Applicant now seeks approval for the remainder of the outstanding items from the December 2019 meeting. In order to be consistent with the terms and numbering used at the December meeting, this report will reference the remaining items as they were referenced in December 2019. The Applicant seeks approval for the following items:

- Item 4 – Pool Accessories (stepping stones, boulder feature, slide with raised bed to support the boulder and slide).

- Item 5 – 1000 square foot broom finish concrete patio (aka pool decking) surrounding pool and 528 square foot flagstone patio extension (previously was proposed to be brick to match existing, it will now all be changed to flagstone).
- Item 6 – Four-foot-tall black aluminum fencing, in the Antietam style.

The Applicant has submitted the following renderings to depict what the proposed fencing, flagstone patio and concrete patio (pool decking) would look like. The proposed slide will be tan in color and will be 8-feet 3-inches high at full height. The applicant will return with landscaping in a future application.

C. Staff Report

Chapter 9.B: Landscape and Site Elements, Trees and Other Vegetation

- 1) *Chapter 9.B recommends, “maintain and install informal landscaping using a variety of trees, shrubs and flowers, particularly native species. Plant new trees and shrubs far enough from buildings to avoid moisture problems and damage to the buildings from falling limbs and roots as the plants grow.”*
- 2) *Chapter 9.B recommends, “maintain the open feel of the District by minimizing property lines demarcations.”*

The construction of a fence is required by code to be installed around the pool. The code requirement has specifications for the type of fencing as well, ensuring that children cannot fit their head through or easily climb over (for example, horizontal rails must be on the inside of the fence, rather than the outside where they can be used as footholds). The fencing will not be used as a property line demarcation, as it will only be located around the pool area.

A new landscape plan has not yet been submitted for review.

Chapter 9.C: Landscape and Site Elements, Fences

- 3) *Chapter 9.C explains, “property lines in Lawyers Hill are only occasionally defined by fencing. Fences are generally low and open, and made of painted wood boards or unpainted split rails. The open feel of the District will be maintained by limiting the use of fencing, and by use low, open fencing when fencing is necessary.*
- 4) *Chapter 9.C recommends, “when installing new fencing, use fencing that is low, open and made of wood. If necessary, this type of fencing can have an inconspicuous, inner wire fencing.*
- 5) *Chapter 9.C recommends, “plant vines or shrubs in front of solid fencing to reduce its visual impact from public roads.”*
- 6) *Chapter 9.C recommends against, “installing stockade, chain link, or wrought iron fencing in a location visible from a public road or a neighboring property.”*

While the Guidelines do not recommend use of a wrought iron fence (which this would emulate in style, but is aluminum in material rather than iron), the fence will not be highly visible from the road or neighboring property. The fence will be most visible from the driveway. The fence will be 4 feet high, which is the shortest the fence can be in order to comply with the code requirements for fencing around a pool. The applicant also chose the black aluminum fence as he felt it would be least visible from the street, as opposed to a wood fence, which is bulkier.

Chapter 9.E: Landscape and Site Elements, Driveways, Walkways and Patios

- 7) *Chapter 9.E recommends, “construct new walkways and patios of brick, flagstone or concrete pavers designed to look like flagstone. New walkways may also be constructed of bark chips or gravel.”*
- 8) *Chapter 9.E recommends against, “constructing new walkways and patios of poured concrete slabs within view of a public road.”*

The proposed concrete and flagstone patios comply with the Commission’s recommendations from the December meeting to have a historically appropriate patio adjacent to the historic house and the concrete patio adjacent only to the pool. Neither patio will be highly visible, if visible at all, from Old Lawyers Hill Road due to the change in topography, and location on the rear of the house.

D. Staff Recommendation

Staff recommends the HPC approve the application as submitted.

E. Testimony

Ms. Holmes stated the application had been amended to use red brick as the patio paving material, instead of flagstone. Staff agreed this is a more compatible material and recommends approval.

F. Motion

Mr. Roth moved to approve. Ms. Tennor seconded. The motion was unanimously approved.

Conclusions of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Lawyer's Hill Historic District Design Guidelines. Chapter 9 sets forth the relevant recommendations for Landscape and Site Elements in the Historic District, as detailed in the Findings of Fact, part C.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to the historic significance of Lawyer's Hill. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of

the surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

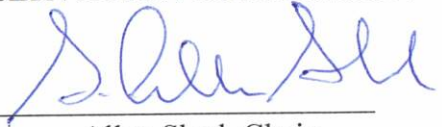
The Applicant proposes additional work on a backyard pool, including a fence, pool deck and patio, and pool accessories. The work is in accord with the Guidelines. The pool was previously approved in HPC Case #19-59. The fence is required by law and will be located near the pool, not on the property line. It will be constructed of dark metal, at the minimum necessary height and will not be readily visible from the public way. Likewise, the pool deck and patio, and the pool boulder slide will not be readily visible from the public way. The decking material is appropriate for the space and use, and the patio paving will be compatible with the historic building.

For these reasons, and for the reasons identified in the Staff Report, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Lawyer's Hill Historic District.

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 5 to 0, it is this 4th day of June, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval for exterior alterations at the Subject Property, is **APPROVED**.

**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**



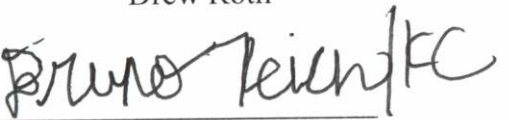
Allan Shad, Chair



Eileen Tennor, Vice-Chair



Drew Roth




Bruno Reich

Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW



Lewis Taylor
Senior Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.

IN THE MATTER OF
THE APPLICATION OF
VERONICA DANIEL

*

BEFORE THE

*

HOWARD COUNTY

FOR A CERTIFICATE OF APPROVAL
FOR EXTERIOR ALTERATIONS AT
3731 HAMILTON STREET/
3744 OLD COLUMBIA PIKE
ELLICOTT CITY, MARYLAND

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HISTORIC PRESERVATION

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COMMISSION

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Case No. 20-22

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DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on May 7, 2020 to hear and consider the application of Veronica Daniel, (“Applicant”), for a Certificate of Approval for exterior alterations to 3731 Hamilton Street/3744 Old Columbia Pike, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Eileen Tenor, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the May 7, 2020 Commission meeting; (5) the Ellicott City Historic District Design Guidelines, May, 1998 (the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member and reviewed with the Commission by Ms. Holmes. The Applicant testified in support of the application.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

This property is located in the Ellicott City Historic District. The buildings date approximately to the 1840s-1850s.

While the application is currently before the Commission for retroactive approval, it was submitted prior to the alteration taking place as part of the television show that recently filmed in Ellicott City. Unfortunately, due to the timing of the submission and a significant number of submissions already in process, staff was unable to process the application for possible Minor Alteration consideration and the alteration was made without HPC approval. Due to the "surprise" nature of the show, it was also unknown at the time if the business owner would want to keep the improvement, as she was unaware it was taking place.

B. Proposed Improvements

The Applicant seeks retroactive approval for the installation of two awnings on the façade of the building facing Hamilton Street/Parking Lot D. The first awning on the main

storefront for the business is hung on the existing, approved, awning frame. The second awning is freestanding and is held up by four posts, anchored by flower pots. This second awning is not attached to the building. The awning material is a non-reflective, Sunbrella acrylic canvas, with a slight scallop to the edges of the awning. The awnings are striped black and white.

C. Staff Report

Chapter 6.L: Rehabilitation and Maintenance of Existing Buildings; Awnings and Canopies

1) Chapter 6.L recommends:

- a. "When installing awnings or canopies, use shed-style awnings that are scaled appropriately for the building size and window spacing. Awnings should be made of nonreflective canvas or another strong fabric, in a color compatible with the building façade."*
- b. "Provide a 10-inch to 12-inch valance on awnings. On commercial buildings, use only the awning's valance for signage."*

The first awning over the storefront was installed using the existing frame and is scaled appropriately to the building. Both awnings are shed style with a valance, without any signage. While the exact size of the valance is unknown, it appears to be the same size as the previously existing, and as mentioned, is scaled appropriately to the size of the building.

The depth of the second awning in front of the stone building is not typical. However, for this specific scenario, the awning serves as a more of a porch area and is not attached to the building. This awning is less of an intrusive change than a previously submitted permanent

porch alteration approved May 2013, #13-21. This awning is not attached to the building and can be removed at any time. The installation and any future removal will not damage to the building.

The colors are compatible with the building, but not do exactly match since the trim color was changed to an off-white/cream color.

D. Staff Recommendation

Staff recommends the HPC approve the application as submitted.

E. Testimony

Ms. Porter was previously sworn in. Mr. Shad asked if Ms. Porter had any additional comments to the staff report. Ms. Porter said she did not have additional comments and had been taken aback by the striped look of the awning because it was a surprise. Ms. Porter said she now finds the overall look design wise very appealing, while the striped awning is not traditional it looks quaint and adorable.

Ms. Tennor said the awning made the business look like a place to go and have some fun. Mr. Roth said he thought the awning looked lovely. Mr. Reich echoed the Applicant's statement of quaint and adorable. Ms. Zoren said she was okay with the striped awning. Mr. Shad said he wished it was not a retroactive approval but was fine with the application.

F. Motion

Mr. Roth moved to approve the application as submitted. Mr. Reich seconded. The motion was unanimously approved.

Conclusions of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Ellicott City Historic District Design Guidelines. Chapter 6.L sets forth the relevant recommendations for Rehabilitation and Maintenance of Existing Buildings; Awnings and Canopies in the Historic District, as detailed in the Findings of Fact, part C.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to Ellicott City's historic significance. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the

surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

The Applicant seeks retroactive approval for the installation of two awnings. The awnings were placed as part of a television show focused on improvements to Historic Main Street.¹ Due to an abbreviated timeline and the secret nature of the show's "reveal," the Applicant was not aware of the awnings, until after they were placed on the Property. The awnings are two-color, black and white stripe, and there is no signage. The awnings sufficiently comply with the Guidelines.

The first awning over the storefront was installed using the existing frame and is scaled appropriately to the building. The depth of the second awning in front of the stone building is not typical. However, the awning serves as a more of a porch area and is not attached to the building. This awning is less of an intrusive change than a previously submitted permanent porch alteration approved in HPC Case #13-21. This awning is not attached to the building and can be removed at any time. The colors are simple and compatible with the building and surrounding area and the overall appearance of the awnings does not detract from the historic character of the Property.


For these reasons, and for the reasons identified in the Staff Report, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Ellicott City Historic District.

¹ See, Ana Faguy, "What we learned from watching Gordon Ramsay make over Ellicott City in '24 Hours to Hell and Back,'" Baltimore Sun (May 13, 2020).

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 5 to 0, it is this 4th day of June, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval for exterior alterations at the Subject Property, is **APPROVED**.

**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**



Allan Shad, Chair



Eileen Tennor, Vice-Chair



Drew Roth



Bruno Reich

Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW



Lewis Taylor
Senior Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.

IN THE MATTER OF
THE APPLICATION OF
VERONICA DANIEL

* BEFORE THE
* HOWARD COUNTY

FOR A CERTIFICATE OF APPROVAL
FOR EXTERIOR ALTERATIONS AT
3731 HAMILTON STREET/
3744 OLD COLUMBIA PIKE
ELLICOTT CITY, MARYLAND

* HISTORIC PRESERVATION
* COMMISSION
* Case No. 20-23

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DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on May 7, 2020 to hear and consider the application of Veronica Daniel, (“Applicant”), for a Certificate of Approval for exterior alterations to 3731 Hamilton Street/3744 Old Columbia Pike, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Eileen Tenor, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the May 7, 2020 Commission meeting; (5) the Ellicott City Historic District Design Guidelines, May, 1998 (the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member and reviewed with the Commission by Ms. Holmes. The Applicant testified in support of the application.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

This property is located in the Ellicott City Historic District. The buildings date approximately to the 1840s-1850s.

While the application is currently before the Commission for retroactive approval, it was submitted prior to the alteration taking place as part of the television show that recently filmed in Ellicott City. Unfortunately, due to the timing of the submission and a significant number of submissions already in process, staff was unable to process the application for possible Minor Alteration consideration and the alteration was made without HPC approval. Due to the "surprise" nature of the show, it was also unknown at the time if the business owner would want to keep the improvement, as she was unaware it was taking place.

B. Proposed Improvements

The applicant seeks retroactive approval for the installation of iron tables and chairs (12 two person and 9 four person tables and chairs) in an off-white color.

C. Staff Report

Chapter 10.C: Parking Lots, Public Streets and Street Furniture; Street Furniture

1) Chapter 10.C recommends:

- a. "Use street furniture that is simple in design and constructed of traditional materials such as wood and dark metal."*
- b. "Improve consistency in design throughout the historic district for items such as street lights, traffic signal, public signage, trash receptacles and other street furniture."*

The new tables and chairs are constructed from metal and are painted an off-white, but the Guidelines recommend the use of dark metal. The design of the chairs is more ornate than is commonly seen in the district. If the new furniture was painted black, the ornateness of the chairs would be less noticeable and better blend with other street furniture in the district, including that on neighboring properties.

The previously existing furniture, as shown in the application, was a simple black metal, which better complied with the Guidelines.

D. Staff Recommendation

Staff recommends the HPC determine if the application complies with the Guidelines and approve, modify or deny accordingly.

E. Testimony

Mr. Shad swore in Jeni Porter. Mr. Shad asked if Ms. Porter had any comments to add to staff recommendations. Ms. Porter said she did not have anything to add and that she got most of the information from the production team less than a week ago. Ms. Porter said she did not know what the production team was doing because of the secrecy of the TV show.

Ms. Burgess asked if Ms. Porter was the store owner and agreed with the work the production team completed and if Ms. Porter wanted to maintain the completed work. Ms. Porter confirmed she was the store owner and said she knew the white metal chairs were not traditional, but she liked the color of the chairs and thought it looked nice with all the other work the production team did. Ms. Porter said the chairs were complimentary with the stonework.

Ms. Tennor said she agreed with the staff that the white metal furniture is different from what the Commission sees outside of the streetscape in Ellicott City. Ms. Tennor noted all other street furniture is black and the application was asking for white street furniture. Ms. Tennor said she does not object to it strongly enough to have the chairs modified. Ms. Tennor asked if the street furniture has already been installed. Ms. Porter confirmed the street furniture had already been installed. Ms. Tennor said while the light fixtures are black and the furniture is white, she thinks there has been a great improvement to the property and does not object to the work but stated it is very different.

Mr. Roth said quoting the Guidelines “use simple designs such as wood or dark metal.” Mr. Roth noted that while the Guidelines say wood and dark metal, these are an example not a requirement of material. Mr. Roth said the question is whether this furniture painted off white can be considered traditional. Mr. Roth said he thinks the color is okay, the chairs are a traditional material and the color is simple in design. Mr. Roth said he is okay with the application.

Mr. Reich asked if the Commission considers the street furniture permanent. Mr. Reich said the chairs are really temporary and seasonal and the chairs are not anchored in. Mr. Reich said he thinks some variety is okay and the white chairs looks a lot better than a sea of black

furniture. Mr. Reich said there is nothing in the application that will destroy or detract from the architecture or environment and in a few years the chairs will need to be replaced.

Ms. Zoren said the application is a little bit different than the rest of Ellicott City and the property in question is a unique space to Ellicott City. The request is a traditional material and moveable furniture not permanently affixed. Ms. Zoren said she is okay with the application.

Mr. Shad said he concurred with Mr. Reich with regards to the situation, location and uniqueness of the request. Mr. Shad called for a motion.

F. Motion

Mr. Reich moved to approve the application. Mr. Roth seconded. The motion was unanimously approved.

Conclusions of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans

for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Ellicott City Historic District Design Guidelines. Chapter 10.C sets forth the relevant recommendations for Parking Lots, Public Streets and Street Furniture; Street Furniture in the Historic District, as detailed in the Findings of Fact, part C.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to Ellicott City's historic significance. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

The Applicant seeks retroactive approval for street furniture. The furniture, which is not permanently affixed to the Property, was placed as part of a television show focused on improvements to Historic Main Street.¹ Due to an abbreviated timeline and the secret nature of the show's "reveal," the Applicant was not aware of the street furniture, including its appearance or design, until after it was placed on the Property.

The street furniture is white metal. Although metal is a favored material in the Guidelines, white metal furniture is not common in the District. The setting of the Subject

¹ See, Ana Faguy, "What we learned from watching Gordon Ramsay make over Ellicott City in '24 Hours to Hell and Back,'" Baltimore Sun (May 13, 2020).

Property is unusual in that it faces and borders a large public parking lot. The furniture is a solid color that is compatible with the granite building. The amount of furniture is less apparent in a white color than a black color. Given this particular setting and the relevant scale of the building, furniture and parking lot, the furniture is not incompatible with the setting. The Commission notes, however, that the unique circumstances and setting of this Property are not generally applicable and the Guideline's preference for black metal will generally apply.

For these reasons, and for the reasons identified in the Staff Report, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Ellicott City Historic District.

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 5 to 0, it is this 4th day of June, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval for exterior alterations at the Subject Property, is **APPROVED**.

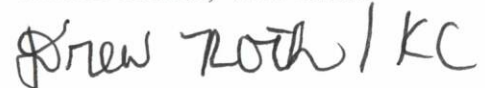
**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**



Allan Shad, Chair




Eileen Tennor, Vice-Chair



Drew Roth



Bruno Reich



Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW



Lewis Taylor

Senior Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.

IN THE MATTER OF
THE APPLICATION OF
KIMBERLY KEPNES

* BEFORE THE
* HOWARD COUNTY

FOR A CERTIFICATE OF APPROVAL
TO REMOVE A TREE AT
3585 CHURCH ROAD
ELLCOTT CITY, MARYLAND

* HISTORIC PRESERVATION
* COMMISSION
* Case No. 20-24

* * * * *

DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on May 7, 2020 to hear and consider the application of Kimberly Kepnes, (“Applicant”), for a Certificate of Approval to remove a tree at 3585 Church Road, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Eileen Tenor, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the May 7, 2020 Commission meeting; (5) the Ellicott City Historic District Design Guidelines, May, 1998 (the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

This property is located in the Ellicott City Historic District. According to SDAT, the building on the property dates to 1865.

This application was initially posted as a Minor Alteration on the Commission's website, as case MA-20-20, but an objection was received from a citizen who believed the Minor Alteration deadline was suspended due to Executive Order 2020-03.

B. Proposed Improvements

The Applicant proposes to remove a diseased/dying and threatening tree. The application states that the Applicant has had multiple trees fall on the property due to disease in the past year. The current tree proposed for removal is located near a parking area adjacent to the driveway and will cause personal property damage when it falls.

The application explains that large limbs have been falling off the tree for several seasons and the bark is now shedding on all sides, displaying a hollow center.

C. Staff Report

Chapter 9.B: Landscape and Site Elements, Trees and Other Vegetation

1. 1) Chapter 9.B recommends, “Plant new trees and shrubs far enough from buildings to avoid moisture problems and damage to the buildings from falling limbs and roots as the plants grow.
2. 2) Routine Maintenance – Removing dead or certifiably diseased trees. (An arborist’s certificate will be accepted for diseased trees).

The tree is very clearly in poor health. If the tree were to fall, it could potentially cause damage to the historic structure, in addition to vehicles.

D. Staff Recommendation

Staff recommends the HPC approve the application as submitted.

E. Testimony

Ms. Kepnes was in attendance, but no further information was given or discussed.

F. Motion

Mr. Roth moved to approve. Ms. Tennor seconded. The motion was unanimously approved.

Conclusions of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Ellicott City Historic District Design Guidelines. Chapter 9.B sets forth the relevant recommendations for Landscape and Site Elements, Trees and Other Vegetation in the Historic District, as detailed in the Findings of Fact, part C.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to Ellicott City's historic significance. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

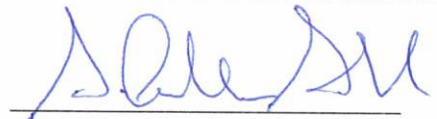
The Applicant seeks to remove a dying tree that is threatening a historic structure and other property. Therefore, removal of the tree is in accord with the Guidelines.

For these reasons, and for the reasons identified in the Staff Report, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Ellicott City Historic District.

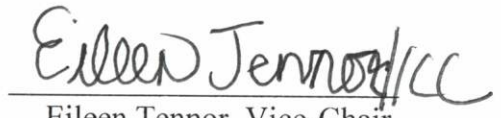
ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 5 to 0, it is this 4th day of June, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval to remove a tree at the Subject Property, is **APPROVED**.

**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**



Allan Shad, Chair



Eileen Tennor, Vice-Chair



Drew Roth




Bruno Reich

Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW


Lewis Taylor
Senior Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.

IN THE MATTER OF
THE APPLICATION OF
HOWARD COUNTY DEPARTMENT
OF PUBLIC WORKS

FOR A CERTIFICATE OF APPROVAL
TO REPLACE SIDEWALKS IN THE
VICINITY OF 8210 MAIN STREET TO
8080 MAIN STREET AND 8267/8247
MAIN STREET/HAMILTON STREET
TO 8111 MAIN STREET
ELLICOTT CITY, MARYLAND

* BEFORE THE
* HOWARD COUNTY
* HISTORIC PRESERVATION
* COMMISSION
* Case No. 20-25
*

* * * * *

DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on May 7, 2020 to hear and consider the application of the Howard County Department of Public Works\ (“Applicant”), for a Certificate of Approval to replace sidewalks in the vicinity of 8210 Main Street to 8080 Main Street and 8267/8247 Main Street/Hamilton Street to 8111 Main Street (those sidewalks located along Main Street, east of Church Road to the Patapsco River), Ellicott City, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Eileen Tenor, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the May 7, 2020 Commission meeting; (5) the Ellicott City Historic District Design Guidelines, May, 1998

(the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff’s recommendation and the basis for the recommendation. Copies of Staff’s recommendation and the application were provided to each Commission member and reviewed with the Commission by Ms. Holmes. The Applicant testified in support of the application.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

The subject property consists of the sidewalks located in the Ellicott City Historic District along Main Street, east of Church Road to the Patapsco River, fronting historic buildings in the vicinity of 8210 Main Street to 8080 Main Street and 8267/8247 Main Street/Hamilton Street to 8111 Main Street.

In the 1990s the brick sidewalks were installed as a cost share between the County and the property owners. As a result, the existing concrete sidewalk was not entirely replaced with brick along the entire street, and portions of concrete remained.

The sidewalks were significantly damaged in the 2016 and 2018 floods. The brick, which was set on a sand base, did not hold up well in many locations and washed away. In order to immediately respond to the emergency and flood recovery efforts, DPW poured

bituminous sidewalks and patched in the locations where sidewalks no longer existed as a temporary measure.

In May 2019, Howard County DPW received Advisory Comments/Pre-application advice from the Commission on sidewalk replacement in case HPC19-20. The following month, in June 2019, Howard County DPW submitted an application for a Certificate of Approval to replace sidewalks in case HPC-19-34. Case HPC-19-34 was continued to the July 2019 HPC meeting, in which the Commission approved the replacement of three areas with concrete and the other areas to be patched with brick.

Over the course of these three meetings, the Commission had many questions on replacement sidewalks and expressed a desire to see brick sidewalks reinstalled in the future. The Commission seemed to generally agree that concrete was acceptable in places where sidewalks were largely destroyed in the floods, and as a result, are now mostly bituminous. In the areas where brick survived the floods and only had small areas of bituminous patchwork, the HPC found that brick should be used as the replacement material for the bituminous patch.

B. Proposed Improvements

The Applicant proposes to replace the temporary bituminous sidewalks along Main Street, east of Church Road, with gray tinted concrete. In certain locations where the bricks did not entirely wash out, small patches of bituminous will be replaced with brick to match the existing. The application states, “concrete sidewalks are proposed at locations identified in the attached plan (Attachment C) and as shown in the attached photos (Attachment D). These include areas that are currently primarily bituminous paving. Where it is required for improved ADA compliance, small portions of existing brick sidewalks may be removed.”

The concrete will be tinted gray, similar to those recently installed by DPW. A scoring pattern, shown in Attachment C, will be used. This pattern includes a 12-inch wide joint along the building face.

The crosswalk will contain bump outs on either side of the street and will be striped consistent with the other crossings on Main Street (white thermoplastic on asphalt paving), in conformance with the Manual for Uniform Traffic Control & Design (MUTCD) and applicable standards.

C. Staff Report

Chapter 9.D: Landscape and Site Elements; Walls, Fences, Terraces, Walkways and Driveways

- 1) Chapter 9.D states, "The most appropriate design and materials for new walls, driveways and other features depends on the specific context. As a rule, they should be simple in design and require minimal changes to the existing topography and natural features. Simple designs will be consistent with historic Ellicott City structures and help new elements to blend with their context...Whenever possible, the materials used should be those used historically in the particular area of the district, especially for features that will be readily visible from a public way."*

The concrete sidewalks are proposed for the specific context of flood resiliency. The proposed sidewalks will be simple in design. Prior to the brick sidewalks being installed in the 1990s, the sidewalks were all concrete. Research reveals that many different materials have been used for sidewalks in Ellicott City over the years, but an original sidewalk material has not been determined.

Chapter 10.A: Parking Lots, Public Streets and Street Furniture; Paving Materials and Street Design

- 2) *Chapter 10.A states, “A variety of paving materials can be used as alternatives to asphalt or concrete. The brick sidewalks and crosswalks used along portions of Main Street blend well with the mix of historic building materials. Granite pavers or stone walks would be in keeping with the early Ellicott’s Mills period of the historic district’s growth. During the later Ellicott City growth period (mid to late 19th century) granite curbs with asphalt block and London Walk pavers would have been used. Use of materials such as these for plazas, parking areas, driveways or walkways will help to provide an appropriate public environment for the historic district.”*
- 3) *Chapter 10.A states, “The concrete sidewalks along Main Street should continue to be replaced with brick when possible. The uniform use of brick for these sidewalks will help to create an identifiable, attractive historic commercial area.”*
- 4) *Chapter 10.A recommends, “When opportunities arise, replace concrete sidewalks with brick along Main Street between Ellicott Mills Drive and the Patapsco River.”*
- 5) *Chapter 10.A recommends, “For plazas, driveways, parking lots, walkways and other paved areas, use stone or stone-like materials as alternatives to asphalt or concrete where practical.”*

While the proposed scored concrete sidewalks do not comply with the Guideline’s recommendations to replace the sidewalks with brick, the existing adopted design guidelines do not anticipate flood resilient materials and scenarios or account for high velocity floods and the corresponding shear stress on the infrastructure. The proposed replacement also complies with the previous approval from July 2019 (HPC-19-34) to replace the areas that are

all asphalt with concrete and patch areas that are mostly brick using new brick. Only small areas that are currently brick are proposed to be concrete when needed for ADA compliance.

The proposed concrete sidewalks would comply with the goal of Chapter 10.A in that it would involve the uniform use of one material and would “create an identifiable, attractive historic commercial area.” The areas to be replaced with concrete consist of bituminous asphalt, which does not create an attractive historic district and has become a safety hazard. By extending the use of concrete to other areas, it will help to maintain uniformity and a cohesive streetscape.

Chapter 10.C Parking Lots, Public Streets and Street Furniture, Street Furniture

- 6) *Chapter 10.C recommends, “Improve consistency in design throughout the historic district for items such as street lights, traffic signals, public signage, trash receptacles, and other street furniture.”*

The recommendation for Chapter 10.C is not directly related to sidewalks, but emphasizes consistency in design, similar to the Guideline for Chapter 10.A which recommends “uniform use” of a material (albeit it recommends brick, which was the movement at the time the current guidelines were written). The previously existing sidewalks consisted of both brick and concrete and was not a consistent design throughout Main Street. This proposal seeks to further remove the bituminous asphalt from Main Street and replace it with concrete to be consistent with the areas replaced last summer.

The crosswalk will be designed to match the others found on Main Street, using white thermoplastic striping.

Chapter 10 and County Code Section 16.606(a)(4)

- 7) *Chapter 10 states, "Design of public improvements is constrained by government budgets, other laws and regulations, public safety and other factors."*
- 8) *Section 16.606(a)(4) of the County Code states that in reviewing an application for approval, the Commission shall give consideration to, "whether the requested action is necessary to protect against threats to public safety."*

The bituminous sidewalks have become a trip hazard and need to be replaced. Replacing these large bituminous areas (where the previous brick sidewalks mostly failed during the floods) with new brick, could result in a public safety hazard in the event of a future flood.

D. Staff Recommendation

Staff recommends the HPC approve the application as submitted.

E. Testimony

Mr. Hollenbeck was previously sworn in. Mr. Shad asked Mr. Hollenbeck if he had any comments to add to the staff report. Mr. Hollenbeck said that DPW is proposing to replace sections of sidewalks that are mostly asphalt with a similar gray tinted concrete that was approved in HPC-19-34, last year. Mr. Hollenbeck said when DPW applied for HPC-19-20 and HPC-19-34, the intention was to work on the worst-case scenario sections of sidewalk and the area proposed in the new application was not on DPW's radar. Once the HPC-19-34 project had been completed, DPW received support from the State and got a State bond bill for \$250,000 to pay for the newly proposed work. DPW walked the entirety of Main Street and took a look at areas based on photos that were completely decimated in one or both of the floods. The request is to replace these areas with concrete because of high shear stress; in

areas where brick was removed for utility patching, brick would go back in-kind. DPW wants to keep sidewalks that are large brick areas in good condition in-kind. Mr. Hollenbeck said the work proposed would stop around Tiber Alley as there is a culvert project underway, so the sidewalk around that project is not addressed in this application.

Another aspect of the application that differs from HPC-19-34 is the proposition to add a mid-block crossing, roughly at Caplan's that would help facilitate pedestrian movement across the street. There is precedent of this type of crossing between La Palapa and the Phoenix on upper Main Street. Mr. Hollenbeck said the mid-block crossing would be composed of a curb and gutter bump out to bring pedestrians into view of vehicular circulation.

Ms. Tennor said she thought the submittal was a good response from all the comments the Commission made from HPC-19-34. Ms. Tennor said the request was valid and good with organizing the streetscape as Mr. Hollenbeck did in the application. Ms. Tennor appreciated the continuation of the gray colored concrete.

Mr. Roth said that he is in support of concrete and brick replacement but wanted to make it explicitly clear behind his reasoning for it. Mr. Roth said in his opinion the Guidelines say that the Commission should be moving toward brick sidewalks and that should be enforced except in certain situations. Where brick washed out in the flood and modeling shows shear forces were more than brick can handle, it is acceptable to replace brick with concrete. Mr. Roth said he is only supportive of the application request because of safety, using brick in areas that washed out is not appropriate due to the shear stress but in any other situation the sidewalk should be replaced with brick material as the Guidelines state.

Mr. Roth said that he was okay with the pedestrian crossing but was concerned that the bump outs would force cyclists into traffic. Mr. Roth recommended that DPW put

consideration for cyclists to take the lane, so they are not forced out of the road by the pedestrian crossing.

Mr. Reich said the Commission has spent a lot of time reviewing sidewalk material in previous hearings. Mr. Reich said the concrete is really a temporary measure until all flood mitigations are put in place. Mr. Reich said in his opinion the Commission is approving this application as a temporary measure to replace the asphalt. Mr. Reich said the pedestrian crossings are a good idea, but he had not considered Mr. Roth's comments about the cyclists. Mr. Reich asked if there were two crossings being installed.

Mr. Hollenbeck clarified that there was an existing crossing at La Palapa's, which is a precedent for DPW to request a second crossing be installed by Caplan's. Mr. Reich asked what the green line on the plan depicted. Mr. Hollenbeck said that the green line is a depiction of the proposed pedestrian crossing location and what it would look like. Mr. Reich said he was okay with the entire application.

Ms. Zoren said the proposed application is a much more unified streetscape plan than the HPC-19-34 request. Ms. Zoren said she is glad the County is moving away from asphalt patches and the use of concrete in the designated locations due to the force of water is appropriate in the proposed locations.

Mr. Shad said he agreed with the other Commissioners and Mr. Reich noting the request would be a temporary measure until the final Master Plan is completed. Mr. Shad said at that time the Commission will have to go down another road with approvals for sidewalk request in the future. Mr. Shad said he agreed with the crosswalk and anything the Commission can do to slow down traffic. Mr. Shad said the bump outs are appropriate and necessary.

F. Motion

Ms. Tennor moved to approve the application. Mr. Reich seconded. The motion was unanimously approved.

Conclusions of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Ellicott City Historic District Design Guidelines. Chapter 9 sets forth the relevant recommendations for Landscape and Site Elements and Chapter 10 sets forth the relevant recommendations for Parking Lots, Public Streets and Street Furniture in the Historic District, as detailed in the Findings of Fact, part C.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to Ellicott City's historic significance. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

The Applicant proposes to repair areas of sidewalk damaged in the 2016 and 2018 Tiber River Floods. The Commission has considered the issue extensively in multiple public hearings, including HPC Case #19-34, which is incorporated here by reference. Currently, the sidewalks are a patchwork of brick, concrete, and asphalt used as an emergency patch. The result is that the sidewalks are uneven and difficult to navigate, particularly for people with mobility issues. In addition to being unsafe and limiting pedestrian access to the District, the patchwork detracts from the historic and architectural characteristics of the District. The Applicant proposes to install new sidewalks, primarily replacing areas of bituminous patches, using concrete.

There is no readily available information about the "original" sidewalks of Main Street. As part of the old "National Road," the original sidewalks were likely dirt tracks. Concrete sidewalks have been historically present in the District. However, the Guidelines, adopted in 1998, prefer brick sidewalks. The Guidelines also prefer a uniform attractive setting and acknowledge the importance of public safety and the protection of historic structures.

Significant evidence has been presented to the Commission that the high velocity flooding that can occur in the District due to its topography as an old mill town causes

dislocation of brick from sidewalks. The brick may then cause further damage as projectiles and obstructions to floodways, increasing flooding. Consequently, the use of brick for sidewalks in high shear stress areas of flooding does not comport with Guideline recommendations to protect the District's historic structures. There is good evidence that concrete is a more flood resilient material than unit pavers such as brick. Concrete is a preferred surface for mobility.

Given the circumstances, and considering the Guidelines' directive that they "do not dictate specific solutions that must always prevail," (G. at 6) and that street improvements related to public safety "take priority over retaining historic characteristics," (G. at 73), and given that brick is not an intrinsic characteristic of the historic value of the District and the Applicant has identified the sheer stress impacts on the proposed areas of repair, the Commission has determined that the proposed work is in accord with the Guidelines.

The Commission expects that the proposed work will be a "temporary" solution while the many stakeholders who share a mutual interest in preserving the viability of Historic Main Street continue to work together on both the Master Plan and appropriate revisions to the Guidelines.

This Decision is highly case specific and shall not be used as precedent in future applications for removals of brick sidewalks. Such applications will be heard exclusively on their own merits and with the understanding that the Guidelines favor brick and applicants bear the burden of demonstrating that proposed work is appropriate and will not impair the historic and architectural value of the District.

The proposed crosswalk with bump-outs is a standard traffic safety feature that comports with Guideline recommendations to protect public safety. The crosswalk will

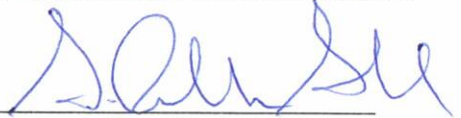
match the others found on Main Street, which is in line with Guideline recommendations to use consistent and uniform design.

For these reasons, and for the reasons identified in the Staff Report, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Ellicott City Historic District.

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 5 to 0, it is this 4th day of June, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval to repair sidewalks at the Subject Property, is **APPROVED**.

**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**


Allan Shad, Chair


Eileen Tennor, Vice-Chair



Drew Roth


Bruno Reich

Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW



Lewis Taylor
Senior Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF	*	
HOWARD COUNTY DEPARTMENT	*	HOWARD COUNTY
OF PUBLIC WORKS	*	
	*	HISTORIC PRESERVATION
	*	
FOR A CERTIFICATE OF APPROVAL	*	COMMISSION
FOR A STREAM RESTORATION IN	*	
THE VICINITY OF 3713 FELLS LANE,	*	Case No. 20-26
3673 PARK AVENUE, 3674 PARK	*	
AVENUE, 3875 ELLICOTT MILLS	*	
DRIVE, AND PARKING LOT F,	*	
ELLICOTT CITY, MARYLAND	*	
* * * * *		

DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on May 7, 2020 to hear and consider the application of Howard County Department of Public Works, (“Applicant”), for a Certificate of Approval for a stream restoration in the vicinity of 3713 Fels Lane, 3673 Park Avenue, 3674 Park Avenue, 3875 Ellicott Mills Drive, Parking Lot F, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Eileen Tenor, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the May 7, 2020 Commission meeting; (5) the Ellicott City Historic District Design Guidelines, May, 1998 (the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member and reviewed with the Commission by Ms. Holmes. A representative of the Applicant testified in support of the application.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

The properties in the vicinity of 3713 Fels Lane, 3673 Park Avenue, 3674 Park Avenue, 3875 Ellicott Mills Drive, and Parking Lot F are located in the Ellicott City Historic District. The structure located at 3713 Fels Lane is listed on the Howard County Historic Sites Inventory and the Maryland Inventory of Historic Properties as HO-581, the "Pines" or the "Fort-Heine House," and dates circa 1876-77 (per the Inventory form). Per SDAT, the structure at 3673 Park Avenue dates to 1948; the structure at 3674 Park Avenue dates to 1952. The property at 3875 Ellicott Mills Drive appears to be part of Parking Lot F and does not contain any structures.

B. Proposed Improvements

The Applicant has submitted a joint application for Advisory Comments and Certificate of Approval for the following work. As stated in the application form, the intent of the proposed work is:

“To stabilize 1,100 linear feet of an unnamed tributary to the Patapsco River and two eroded channels draining into the tributary. The proposed project is located south of Court House Drive and north of Parking Lot F in Historic Ellicott City, Maryland. The proposed work includes channel bed and bank stabilization, piping of an ephemeral channel, bank grading, slope stabilization, and vegetative establishment. Channel stability is a primary focus of the project, specifically ensuring vertical and lateral stability in areas where there was a perceived risk of channel incision or bank erosion. Proposed channel bed structures and grading are intended to increase the overall stability of the site by providing grade control and reducing erosive forces, particularly in the steep slope segments.”

The application explains that in order to accomplish the stream restoration goals, “there will need to be some removal of trees greater than 12-inch diameter, however upon completion of the proposed work the entire site will be planted with a diversity of native trees, herbaceous vegetation and live stakes.” The application identified 63 trees with a dbh (diameter at breast height) of 12 inches or greater. Of these 63 trees, 4 were identified as specimen trees. All specimen trees will remain. Of the overall 63 total trees that are 12 inches or greater, 18 trees with a dbh between 12 inches and 29.5 inches are proposed to be removed (these 18 trees are all located on the property at 3713 Fels Lane, HO-581). The replanting plan will consist of 285 trees that are 6 feet high, with a minimum 1-inch caliper. The application explains the replanting will include “a diversity of native trees, herbaceous vegetation and live stakes which is expected to adequately provide for the replacement of mature trees.”

The stream restoration will also include the following elements, as explained in the application:

- 1) **Proposed Structures** - The primary material used is riprap and existing on-site material will be incorporated into the structures to further promote a natural appearance.
- 2) **Riffle Grade Control and Cascade Structures** – “Riffle grade control and cascade structures are proposed for grade control (channel bed stabilization) along the Mainstem. Tributary cascade structures are proposed for grade control along Tributary 2. Both structures consist of a graded riprap mix that is designed to provide a balance of bed armoring, while also allowing for diversity in stream flow and bedform (roughness) through the use of smaller sized stone classes. Salvaged channel material will be utilized to fill void space between stone mixes and mimic natural channel material. The cascade structures contain embedded logs to increase flow diversity, as well as provide additional habitat benefits.”
- 3) **Outfall Pool Structures** – “Natural step-pool structures typically occur on steep slopes and are characterized by distinct longitudinal steps formed by clasts of larger bed material (boulders and bedrock) interspersed by pools with accumulations of finer material (Montgomery and Buffington, 1997). In the drainage channel, a pool is proposed to aid in energy dissipation and steep slope transition from bedrock to gravel-bed near the Mainstem confluence. The pool will be lined with riffle mix.”
- 4) **Bedrock Enhancement** – “Consists of grading the existing channel bank back to provide for a low vegetated bench with bank stabilization methods using biodegradable coir materials...Preservation of the existing flow path, which appears to be vertically stable (predominantly bedrock) is an important consideration through

this section and this feature is intended to reduce the erosive force associated with flood flows as well as provide an opportunity to increase near bank vegetation.”

- 5) **Coir Block Toe Stabilization** – “The toe of slope along the bedrock enhancement bench treatment will be stabilized with coir fiber blocks. These blocks will be flexible in nature to conform to existing bedrock topography, if encountered, and provide a stable transition between the bench zone and the bank surface.”
- 6) **Toe Boulder Protection** – “In Drainage Channel 2, the right bank toe-of-slope upstream of the outfall pool will be stabilized with toe boulder protection to provide additional slope stability and reduce the risk of lateral adjustment in approach to the proposed outfall pool. Toe boulder protection consists of placed riprap from below the toe of slope up to 0.5 feet above the toe in the area of highest bank shear. Protecting this relatively small proportion of the bank allows for protection from lateral migration and shear while still providing ample bank face for vegetation.”
- 7) **Revegetation/Landscaping** – “The planting schedule consists of four zones including 1) turfgrass, 2) live stake, 3) riparian tree, and 4) bedrock enhancement zone. The turfgrass zone is only proposed to re-establish existing grass areas such as the stockpile and access path off of Lot F. The turfgrass zone is also proposed for existing grass areas along the parking lot on Court House Drive, where the inlet and piping of Drainage Channel 1 are proposed. The turfgrass zone will receive only seed from turfgrass species. The live stake zone includes the channel banks from the proposed toe of slope to an elevation two (2) feet up the bank to allow for the installation of one row of live stakes. The riparian tree zone is located along the riparian corridor including the upper portions of streambanks and consists of a mixture of native trees.

Tree planting is also proposed along the top of the slope of Drainage Channel 2 along the parking lot on Court House Drive and the proposed stockpile area. The riparian seed mix is proposed for all disturbed areas, except for the turfgrass zone. The bedrock enhancement zone is proposed on the right bank near the upstream limit of Mainstem work. Frequent inundation and proximity to the stream channel are expected to provide conditions favorable to wetland species of trees, shrubs, grasses and herbaceous vegetation. Due to the possibility of bedrock limiting rooting depths in this planting zone, herbaceous plugs are proposed. Species in the live stake, riparian tree, and bedrock enhancement zones were chosen based on their hardiness, wetland indicator status, shade, deer and drought tolerance, as well as likely and/or observed existence within the project site. Zone locations, species, and quantities are found on the landscape plans and detail sheets.”

The riparian seed mix will consist of:

Riparian Seed Mix					
Zone	Botanical Name	Common Name	Wetland Status	Percent Mix	Total Mix (lbs.)
LIVE STAKE, RIPARIAN TREE, BEDROCK ENHANCEMENT	<i>Panicum clandestinum</i>	Deertongue	FAC	30	
	<i>Elymus virginicus</i>	Virginia Wild Rye	FACW	20	
	<i>Andropogon gerardii</i>	Big Bluestem	FAC	12	
	<i>Sorghastrum nutans</i>	Indiangrass	FACU	10	
	<i>Panicum virgatum</i>	Switchgrass	FAC	5	
	<i>Chamaecrista fasciculata</i>	Partridge Pea	FACU	4	
	<i>Verbena hastata</i>	Blue Vervain	FACW	4	
	<i>Juncus effusus</i>	Soft Rush	FACW	3	
	<i>Rudbeckia hirta</i>	Blackeyed Susan	FACU	3	
	<i>Helopsis helianthoides</i>	Oxeye Sunflower	FACU	2	
	<i>Asclepias incarnata</i>	Swamp Milkweed	OBL	1	
	<i>Aster novae-angliae</i>	New England Aster	FACW	0.7	
	<i>Aster umbellatus</i>	Flat Topped White Aster	FACW	0.7	
	<i>Eupatorium perfoliatum</i>	Boneset	FACW	0.7	
	<i>Agrostis perennans</i>	Autumn Bentgrass	FACU	0.5	
	<i>Geum canadense</i>	White Avens	FACU	0.5	
	<i>Helenium autumnale</i>	Common Sneezeweed	FACW	0.5	
	<i>Monarda fistulosa</i>	Wild Bergamot	UPL	0.5	
	<i>Vernonia noveboracensis</i>	New York Ironweed	FACW	0.5	
	<i>Pycnanthemum tenuifolium</i>	Narrowleaf Mountainmint	FACW	0.4	
	<i>Solidago patula</i>	Roughleaf Goldenrod	OBL	0.4	
	<i>Eupatorium maculatum</i>	Spotted Joe Pye Weed	FACW	0.3	
	<i>Lobelia siphilitica</i>	Great Blue Lobelia	FACW	0.3	
Total				100	47
* SEED SOWING RATE TO BE APPLIED AT 50 LBS/AC					

The wetland seed mix will consist of:

Wetland Seed Mix					
Zone	Botanical Name	Common Name	Wetland Status	Percent Mix	Quantity (lbs.)
Wetland	<i>Carex vulpinoidea</i>	Fox Sedge	OBL	100	
Total				100	0.1
* SEED SOWING RATE TO BE APPLIED AT 50 LBS/AC					
**Existing condition is an emergent wetland with only herbaceous vegetation.					

The turfgrass seed mix will consist of:

Turfgrass Seed Mix				
Zone	Botanical Name	Common Name	Percent Mix	Quantity (lbs.)
Turfgrass	<i>Poa pratensis</i>	Kentucky Blue Grass	33	
	<i>Lolium perenne</i>	Perennial Rye Grass	33	
	<i>Schedonoris phoenix</i>	Tall Fescue	34	
Total			100	45.3

The planting schedule for trees and other vegetation will consist of:

Planting Schedule							
Zone	Quantity	Botanical Name	Common Name	Wetland Status	Size	Root	Comment
Live Stake	229	<i>Cornus amomum</i>	Silky Dogwood	FACW	3'-4' Long x 1/2"-1 1/2" Dia	Live Stake	Plant 2' O.C.
	229	<i>Sambucus nigra</i>	American Black Elderberry	FAC	3'-4' Long x 1/2"-1 1/2" Dia	Live Stake	Plant 2' O.C.
	229	<i>Salix nigra</i>	Black Willow	OBL	3'-4' Long x 1/2"-1 1/2" Dia	Live Stake	Plant 2' O.C.
Riparian Tree	57	<i>Quercus rubra</i>	Northern Red Oak	FACU	6' HT, 1" cal. Minimum	7 GAL. CONT.	Plant 12' O.C.
	57	<i>Liriodendron tulipifera</i>	Tulip Poplar	FACU	6' HT, 1" cal. Minimum	7 GAL. CONT.	Plant 12' O.C.
	57	<i>Platanus occidentalis</i>	American Sycamore	FACW	6' HT, 1" cal. Minimum	7 GAL. CONT.	Plant 12' O.C.
	57	<i>Populus deltoides</i>	Eastern Cottonwood	FAC	6' HT, 1" cal. Minimum	7 GAL. CONT.	Plant 12' O.C.
	57	<i>Cercis canadensis</i>	Eastern Redbud	FACU	6' HT, 1" cal. Minimum	7 GAL. CONT.	Plant 12' O.C.
Bedrock Enhancement	213	<i>Andropogon gerardii</i>	Big Blueslem	FAC	5" Deep x 2" Dia	Plug	PLANT 18" O.C.
	213	<i>Carex tribuloides</i>	Blunt Broom Sedge	FACW	5" Deep x 2" Dia	Plug	PLANT 18" O.C.
	213	<i>Juncus effusus</i>	Soft Rush	FACW	5" Deep x 2" Dia	Plug	PLANT 18" O.C.

The trees that are 12-inches or greater to be removed are shown in the chart below. These trees are all located on the property at 3713 Fels Lane (HO-581), the Fort-Heine/Bernard Fort House. There is a note on the plan that states that Tree 43, the 29.5" American Sycamore will be field evaluated at the time of construction to determine if it can be saved.

Tree ID Number	DBH (Inches)	Common Name	Condition
17	14.0	Black Cherry	Fair
20	19.0	Boxelder	Poor

21	19.0	Boxelder	Fair
22	15.5	Boxelder	Fair
23	17.0	Boxelder	Poor
25	14.0	Boxelder	Fair
26	15.0	Boxelder	Fair
27	16.0	Boxelder	Poor
28	18.0	Boxelder	Fair
30	12.5	Green Ash	Poor
43	29.5	American Sycamore	Good
45	12.0	White Oak	Fair
47	23.0	Tulip Poplar	Fair
52	18.0	Green Ash	Fair
61	20.0	Black Locust	Poor
62	13.0	Black Locust	Poor
63	13.0	Boxelder	Poor
64	22.0	American Sycamore	Fair

C. Staff Report

Chapter 9.A: Landscape and Site Elements; Topography and Water Courses

- 1) Chapter 9 explains, “Ellicott City’s natural setting is essential to its character. In projects that involve grading land, clearing vegetation or building new structures, care should be taken to protect and enhance natural features, views of important natural features, and the environmental setting of historic buildings. The Historic

Preservation Commission will review the impact of such proposals on the historic setting of Ellicott City and particularly on the relationship of historic buildings to their sites."

- 2) *Chapter 9.A recommends, "maintain and reinforce natural landscape elements, such as rock outcroppings, water courses and tree lines. Make views of natural elements, especially the Patapsco River and its tributaries, available to the public where possible."*

The proposed plan is intended to provide stream restoration and complies with the recommendations

s to "maintain and reinforce natural landscape elements." Although 18 trees are proposed for removal, 285 new trees will be planted, in addition to the other vegetation, stream structures and enhancement.

The trees to be removed at 3713 Fels Lane are not in close proximity to the historic structure. They are located within the forested area. The Commission should determine if these trees are part of the environmental setting of the historic building and if their removal will adversely affect the building.

Chapter 9.B: Landscape and Site Elements; Trees and Other Vegetation

- 3) *Chapter 9.B recommends, "Retain mature trees and shrubs. Provide for their replacement when necessary."*
- 4) *Chapter 9.B recommends, "Include landscaping improvements as part of any construction project in locations visible from a public way. In most cases, use plant varieties native to the area."*

- 5) *Chapter 9.B recommends against, “the removal of live mature trees, unless it is necessary due to disease or to prevent damage to historic structures.”*
- 6) *Chapter 9.B states that “removing live trees with a diameter of 12 inches or greater 4.5 feet above ground level” requires a Certificate of Approval.*

The 18 trees to be remove range in condition from fair to poor. The only tree marked with a condition of “good” is Tree 43, the 29.5” American Sycamore, which will be field evaluated at the time of construction to determine if it can be saved. In order to accomplish the stream restoration, the application states that the removal of these trees is necessary. The removal of the trees will be remediated by the substantial replanting plan, including 285 new trees (Northern Red Oak, Tulip Poplar, American Sycamore, Eastern Cottonwood and Eastern Redbud), 229 Silky Dogwood live stakes, 229 American Black Elderberry live stakes, 229 Black Willow live stakes and the riparian, wetland and turf grass seed mixes. The proposed replanting complies with the Guideline recommendation to provide for the replacement of matures trees and shrubs.

D. Staff Recommendation

Staff recommends the HPC provide Advisory Comments on the application. If the Advisory Comments do not result in changes to the proposal, Staff recommends the HPC approve the application as submitted. If the Advisory Comments will result in changes, Staff recommends the HPC recommend continuing the application for Certificate of Approval to the next meeting, in order to better address the comments.

E. Testimony

Mr. Shad swore in Avinash Dewani from the Department of Public Works and Lindsay Nicoll from McCormick Taylor. Mr. Shad asked if there were any additional comments to add

to the staff report. Mr. Dewani explained the request was to provide a stable stream channel. The channel is eroded in several locations. DPW will not be removing any structures. Mr. Dewani said the application was proposing to remove 18 trees and in turn DPW will be planting 285 trees, but this could change slightly based on site conditions.

Mr. Shad swore in Mark Richmond, Division Chief of the Stormwater Management Division of DPW.

Ms. Tennor noted there was a lot of detail addressed in the application submittal. Ms. Tennor said she hopes DPW can save some of the larger trees listed as being removed, specifically the 29.5-inch Sycamore but was impressed to see so many live stakes going in. Mr. Dewani said DPW has done live stakes for a lot of stream projects. Ms. Tennor said the stream will function better once the project is finished.

Mr. Roth said he did not think that a 29.5-inch Sycamore in good condition is adequately replaced by any number of smaller trees. Mr. Roth said his approval was dependent upon a better justification to replace the Sycamore. Mr. Roth asked why the Sycamore had to be removed. Ms. Nicoll said the goal of the project was to save the Sycamore, but it was listed for removal as the reality of the storm drains that have the tightest drain that can be fit in will still have an end wall that impacts the root structure of the Sycamore. Ms. Nicoll explained that when the tree roots are excavated, the roots may be in the limit of excavation. It is possible the root structure will not be in conflict but that is how this application was written in case the root structure is in conflict.

Ms. Nicoll said there is a risk to damage the tree root structure with construction activities, but the intent is to save the tree. Ms. Nicoll noted the gully adjacent to the parking lot is pretty deep and unsafe as it is working up to the parking lot, but the intent is to save the

tree but be prepared in case the tree cannot be saved. Mr. Roth said that information was what he was looking for in terms of justification of the application request. The only viable location of the storm drain is such that has to be in this path that impacts this tree but if the County can save the Sycamore they will. Mr. Roth recognized that if the stabilization effort is not put in, the gully will expand and destroy the parking lot.

Mr. Reich said the size of the plans were difficult to interpret with the amount of detail included on the plans. Mr. Reich summarized the location of the scope with applicant for clarification. Mr. Reich noted there is quite a dip with grading, and asked if the applicant was going to clean up the slope on both sides. Mr. Dewani said the channel is unstable with a very steep slope and the application was to make a flatter slope. Mr. Reich noted the different materials that will be used to help flatten the slope such as embedded logs and stone. Ms. Nicoll said the slopes in this channel are very significant, so the hydraulics are substantial, incorporating material on the site to use in the structures is beneficial, combining wood from the site and stone helps to increase the diversity and character of the structures. Mr. Reich asked if the logs would rot over time when everything is stabilized. Ms. Nicoll said yes, the logs are not used in a way that the structure is dependent upon the logs, the structure will be set in stone within a rock matrix, riparian and live stakes assist and the logs will rot over time when everything is established and stabilized.

Mr. Reich said there were three areas of riprap. Ms. Nicoll said the riprap were instream structures that are a like a backbone, those structures are the vertebra that give it structure and hold it in place, and create a cascade of structures. Mr. Reich said the structures would be as follows: a headwall that is about 50-100 feet, then riprap and then starting the cascade structures. Ms. Nicoll clarified the riprap pattern that is seen is existing, it is a

replacement of a failing roadway. Mr. Reich and Ms. Nicoll continued to discuss the site plan. Ms. Nicoll explained the use of coir block to help plant density and allow the natural vegetation can regenerate.

Ms. Zoren said she did not have much to add that has not already been said but urged the Applicants to keep as many of the large trees as possible. Mr. Shad echoed Ms. Zoren's comment about trying to keep the large trees but noted anything will be an improvement to the tributary.

F. Motion

Mr. Roth moved to approve the application as submitted. Mr. Reich seconded. The motion was unanimously approved.

Conclusions of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Ellicott City Historic District Design Guidelines. Chapter 9 sets forth the relevant recommendations for Landscape and Site Elements in the Historic District, as detailed in the Findings of Fact, part C.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to Ellicott City's historic significance. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

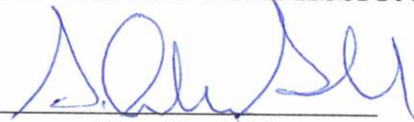
The Applicant proposes a stream restoration project on a tributary of the Tiber River that flows to Main Street. Part of the stabilization of the stream and adjacent slopes will require the potential removal of 18 trees. The trees are primarily located within a forested area and are not in close proximity to historic structures. The Applicant intends to attempt to retain a large sycamore tree but may not be able to. The work complies with Guideline recommends to "maintain and reinforce natural landscape elements." Although 18 trees are proposed for removal, 285 new trees will be planted, in addition to other vegetation. The proposed replanting complies with the Guideline recommendation to provide for the replacement of matures trees and shrubs.

For these reasons, and for the reasons identified in the Staff Report, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Ellicott City Historic District.

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 5 to 0, it is this 4th day of June, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval for exterior alterations at the Subject Property, is **APPROVED**.

**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**


Allan Shad, Chair


Eileen Tennor, Vice-Chair



Drew Roth


Bruno Reich


Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW


Lewis Taylor
Senior Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.

IN THE MATTER OF
THE APPLICATION OF
MICHAEL SMITH

*

BEFORE THE

*

HOWARD COUNTY

FOR A CERTIFICATE OF APPROVAL
FOR EXTERIOR ALTERATIONS TO A
STONE RETAINING WALL AND
REMOVE TWO TREES AT
3877 COLLEGE AVENUE
ELLCOTT CITY, MARYLAND

*

HISTORIC PRESERVATION

*

COMMISSION

*

Case No. 20-27

* * * * *

DECISION AND ORDER

Pursuant to Title 16, Subtitle 6, of the Howard County Code, notice having been properly published, the Historic Preservation Commission (“Commission”) convened a public hearing on May 7, 2020 to hear and consider the application of Michael Smith, (“Applicant”), for a Certificate of Approval (partially retroactive and partially for work not yet completed) to make exterior alterations to a stone retaining wall and remove two trees at 3877 College Avenue, Ellicott City, Maryland (the “Subject Property”). The Commission members present were Allan Shad, Eileen Tenor, Drew Roth, Bruno Reich, and Erica Zoren. The following documents, incorporated into the record by reference, are applicable to this case: (1) the appropriate provisions of the Howard County Charter and the Howard County Code, including the Howard County Zoning Regulations; (2) the General Plan for Howard County; (3) the application for a Certificate of Approval and associated records on file with the Commission; (4) the Agenda for the May 7, 2020 Commission meeting; (5) the Ellicott City Historic District Design Guidelines, May, 1998 (the “Design Guidelines” or “Guidelines”); and (6) the general design guidelines listed in Rule 107 of the Commission’s Rules of Procedure.

Summary of Testimony

Ms. Samantha Holmes, Staff to the Commission, presented the application, identifying the work proposed by the Applicant for which approval is requested, and the Staff's recommendation and the basis for the recommendation. Copies of Staff's recommendation and the application were provided to each Commission member and reviewed with the Commission by Ms. Holmes. The Applicant testified in support of the application.

Findings of Fact

Based upon the evidence, the Commission makes the following findings of fact:

A. The Subject Property

The stone wall is located along College Avenue, within the Ellicott City Historic District, in front of the house at 3877 College Avenue. The trees are most likely associated with the Hazelhurst estate, which contains the historic house, Hazeldene/Lilburn (HO-353). Hazeldene/Lilburn was constructed using massive, ashlar granite blocks in the Gothic Revival Style. According to a history compiled with Historic Ellicott City, Inc., the original Hazelhurst estate consisted of over 2000 acres and the house was constructed in 1851. This entry up College Avenue originally contained an entry gate (a historic feature which the current owner moved elsewhere on his property to protect from vandalism). The oak trees appear to be purposely planted along College Avenue, as an allée along the entry to the Hazelhurst house (HO-353). There are other oaks of a similar size along the roadway.

The application explains that the stone walls have been hit numerous times over the years by vehicles. The Applicant has been working with the Department of Public Works (DPW) on a plan for the roadway and has contacted HPC staff over the last few years to

discuss the wall and potential plans. On December 9, 2019, HPC staff, DPW and the Applicant met on-site to review the work that had been done and the work that was yet to be completed due to the trees that needed to be removed.

This application was originally scheduled for the March 2020 HPC meeting, as case HPC-20-06, but was withdrawn by the Applicant prior to the meeting.

B. Proposed Improvements

The Applicant seeks retroactive approval for the re-alignment of approximately 80 linear feet of stone wall that has been moved back between one and six feet from the roadway. The Applicant also seeks approval to finish moving the remainder of the stone wall, which consists of approximately 65 linear feet that would be moved back four feet and gradually taper to a zero-foot setback at Ross Road. The Applicant seeks approval to remove two oak trees in order to complete this work. The application states that the tree root zone area would be impacted by the wall relocation, which would cut through the root zone in order to pull the wall back four feet at this location. Tree A, shown in Figure 8, has a circumference of 112 inches, with a diameter of 35.67 inches. Tree B, shown in Figure 8, has a circumference of 126 inches, with a diameter of 40.13 inches.

C. Staff Report

Chapter 9.B: Landscape and Site Elements; Trees and Other Vegetation

- 1) *Chapter 9.B explains, "...Along other streets, however, large mature trees remain an important part of the streetscape. Some, such as the silver maple trees along upper Church Road (planted in 1888), are similar in age to nearby historic buildings. These and other trees that are tied to the history of the area should be carefully protected."*

- 2) *Chapter 9.B recommends, “Retain landscaping patterns that reflect the historic development of the property.”*

As mentioned above in the background, the proposed trees to be removed are most likely associated with the original Hazelhurst estate and historic house, Hazeldene/Lilburn (HO-353). The oak trees appear to be purposely planted along College Avenue, as an allée along the entry to the Hazelhurst house (HO-353). There are other oaks of a similar size along the roadway.

- 3) *Chapter 9.B recommends against the “removal of live mature trees, unless it is necessary due to disease or to prevent damage to historic structure.”*

The trees appear to be in good health; there has been no evidence presented that indicates otherwise.

- 4) *Chapter 9.B recommends, “Retain mature trees and shrubs. Provide for their replacement when necessary.”*

The application does not indicate if there is a plan to plant new trees and shrubs. While this area is adjacent to wooded side yard, a site visit in July 2019 (HPC-19-36) to review trees to be removed, revealed at least a dozen or more dead trees. In 2019, HPC-19-36 was approved to remove four trees in this vicinity. There were two additional trees to be removed at this time that did not require approval. The removal of the current trees, in addition to the six removed last summer, and the existing dead trees, will result in a change of character if there is no replanting plan.

D. Staff Recommendation

Staff recommends the HPC determine if the application complies with the Guidelines and approve or deny accordingly. If the Commission approves the removal of the trees and relocation of the remainder of the wall, Staff recommends the HPC consider a replanting plan to mitigate the effect of those alterations.

E. Testimony

Mr. Shad swore in the owner, Michael Smith and Mark Jirus, Rockin Walls contractor. Mr. Shad asked the Applicant if he had any additional comments to add to the staff report. The Applicant provided testimony in support of his application, providing background information on previous traffic accidents involving the wall. DPW had been brought in to consult and fund part of the repairs to the wall due to the previous accidents. Mr. Smith said that DPW staff said to resolve the repetitive issue with accidents, Mr. Smith would need to move the wall back two to four feet and remove the trees where the wall would be relocated or to remove the wall and the trees. Mr. Smith said he wants to retain the wall but relocate the wall off from the road.

Mr. Jirus, spoke on behalf of the application. He is certified as a dry stone professional waller. Mr. Jirus said the wall was originally made of pink granite from the quarry in Ellicott City and was topped off with blue granite that is from Baltimore County quarries. Mr. Jirus said he had to correct a lot of wrong methods used in prior repairs in the drystone wall and put it back together properly. Mr. Jirus explained in order to give the wall a better lifespan the wall was increased by an additional front side wall with a back side, the backside will have a low-grade foundation and maximize the traditional material for face stones.

Ms. Tennor said she was glad that the Applicant was not only saving the wall but retaining the level of craftsmanship and quality of the wall. Ms. Tennor said she was confused why the Applicant were bringing the request to the Commission if they had been working with County staff and why the reconstruction got as far as it did before the Commission saw the request. Mr. Smith acknowledged that the request should have come before the Commission before the work started but said he experienced issues with his neighbors regarding the safety of the damaged wall. Ms. Tennor clarified that the Applicant felt like he had to move forward without approval because of increased traffic and accidents. Mr. Smith said since Mr. Jurus has fixed the wall there has been no impacts to that portion of rebuilt recessed wall. The portion of the wall that remains unfixed has had impact as it still resides adjacent to the street.

Mr. Jurus provided background information on the repairs, and said the tie stones are old granite tombstones that tie back into the wall to have length. The stone wall now is made of up of pink and blue granite and black granite from Olney. Mr. Jurus has mixed the granite throughout the wall to preserve it. Howard County DPW had a stockpile of stone and he was able to obtain some from the workers when they were working on the Baptist Church and Meyer stream restoration projects otherwise there is no other way to obtain stone like the kind found in Mr. Smith's wall.

Mr. Roth said he felt that the application was appalling and that he was not going to vote to remove the trees or vote to move anymore wall from the historic context. People drive wild and it is the County that has not added traffic calming measures and that does not justify moving a historic wall out of its context or removing healthy trees. Mr. Roth said it was very regrettable for moving the wall already. Mr. Roth will approve what has been moved but will

not approve any more of the relocation of the wall. Mr. Smith said that the County looked at the traffic patterns and were afraid that cars would become airborne if speed bumps were put in or had concern for the noise level of any traffic calming created. He said DPW thinks pushing the wall back was the right move. Mr. Smith said that trees that are leaning now will come down at some point and will impact the town houses across the street.

Mr. Reich said he sees the application request as a minor realignment, with moving the wall a few feet back. The trees are leaning so much, that even though they are historic, they are not going to last the way that they are. Mr. Reich noted at some point the trees will be taken and the electric lines could go down with the trees. Mr. Reich said he thinks the application is a great improvement because the Applicant is improving the longevity and stability of the wall. Mr. Reich said he thinks it is a beautiful wall and wants the Applicant to finish the project. Mr. Reich said he thinks the trees are okay to be removed as they lean over the road too much.

Ms. Zoren said she is inclined to agree with Mr. Roth. Ms. Zoren said as Mr. Smith pointed out, this was one of the last walls of its type in that condition in Ellicott City. Ms. Zoren commended the Applicant and Mr. Jurus for repairing the wall with historically appropriate materials. Ms. Zoren said the trees in question are really part of the District and planted in a historic pattern and layout. Ms. Zoren said she would like for the Applicant to consult with a tree preservationist or a tree expert. Ms. Zoren noted that the Applicant is talking about moving the wall 2-3 feet and explained that if less than 25% of the tree's roots were disturbed, the tree can survive if the roots are trenched properly. Ms. Zoren asked if the project could move the wall in while keeping the oak trees and said that she would like to see the Applicant explore that option.

Mr. Shad said as far as the retroactive approval aspect, he understands why the application had to be done that way. Mr. Shad said he agrees with Ms. Zoren's comments about the repairs made to the walls. Mr. Shad said he would hate to see the trees go but knows if the trees become a hazard to traffic, they are going to come down naturally or another way. Mr. Shad said he is okay with the trees being removed and hopefully new trees can be planted on the property for mitigation.

Mr. Smith said that they had looked at the tree ball that Ms. Zoren referenced but did not think there was a feasible way with the tree being so close to the edge of the wall and there was not much support holding the tree up. The applicant is unable to do any work to the wall because of the tree. Mr. Jurus explained how the tree roots were impacted no matter how they tried to work around them. Mr. Jurus said that he was told by the County there could not be any canopy over the roadway. Ms. Zoren asked if the applicants have talked to a tree expert or just gone by the word of an engineer. Mr. Smith said he was going by the word of his waller, Mr. Jurus.

Mr. Jurus said that the trees have a great value but it is important to remember Ellicott City is known for its granite and drystone walls, like the one in the application are some of the most visible displays of the granite. An oak tree has a life span of 150 years, if the tree was planted when the castle was built then the tree is past its life span as the wall has been in place for 170 years. Mr. Jurus said he is able to expand the lifespan of the wall longer than 170 years.

Mr. Taylor said before a motion is made, Staff recommended the Commission consider a replanting plan to mitigate the effect of the proposed alteration. Mr. Taylor said he was not sure if this was discussed or if the Applicant had any response to that recommendation. Mr.

Smith said he would be happy to plant or replant a distance back from the wall so in time the trees would not hit the wall. Mr. Smith reminded the Commission he has come before them for a very large oak tree that fell down abruptly and took out other trees when it fell down where this project staging area is located. Mr. Smith said he would be willing to work with staff to come up with a replanting plan.

F. Motion

Ms. Tennor moved to approve the application to rebuild the granite wall and remove the two oak trees, retroactively with the stipulation that the Applicant complete the rebuilding and to come back to the Commission or to Staff with a planting plan to mitigate the trees that are posing a hazard and are going to be removed. Mr. Reich seconded. The motion was approved 3 to 2, Mr. Roth and Ms. Zoren opposed.

Conclusions of Law

Based upon the foregoing Findings of Fact, the Commission concludes as follows:

A. Standards of Review

The standards for review of an application for a Certificate of Approval are set forth in Section 16.607 of the Howard County Code and require consideration of:

- (1) The historic, architectural, or archaeological value or significance of the structure and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
- (4) Any other factors, including aesthetic factors, which the Commission deems to be pertinent.

Section 16.607(c) of the Code further provides:

It is the intent of this subtitle that the Commission be strict in its judgment of plans for contributing structures. It is also the intent of this subtitle that the Commission shall be lenient in its judgment of plans for structures of little historic value or plans

for new construction, except where such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

Section 16.607(d) authorizes the Commission to adopt guidelines for its review of applications based on the standards set forth in the Code. Pursuant to this authority, the Commission has adopted the Ellicott City Historic District Design Guidelines. Chapter 9 sets forth the relevant recommendations for Landscape and Site Elements in the Historic District, as detailed in the Findings of Fact, part C.

B. Application of Standards

Applying these standards and guidelines to the Subject Property, the Commission finds that it contributes to Ellicott City's historic significance. Consequently, in reviewing the application, the Commission will be strict in its judgment. The Commission finds that the Applicant's proposal would not impair the historic or architectural value of the surrounding area. The Commission finds that the proposal is consistent with the Guidelines. The evidence supports this conclusion.

The Applicant seeks approval, partially retroactive, for the relocation of a historic stone wall and the prospective removal of two historic oak trees. The Commission's decision in this case reflects the dilemma of historic districts as places of both preservation and active modern life. Inevitably, there must be a balance struck. Here, what was once a winding carriage lane approaching the 1851 Hazelhurst estate is a public road busy with modern vehicles. The old lane was made grander with natural columns of oak trees, only a few of which remain in a landscape that is now no longer an estate, but an established residential area adjacent to new residential development further out College Avenue beyond the boundary of the Historic District. Unfortunately, the carriage lane was not built for the modern vehicles, including trucks, that use the current roadway. As a consequence, the

stone wall, which is located on a steep blind curve with no shoulder, has been struck numerous times. Most recently, significant damage had been done to the upper part of the wall that has already been repaired.

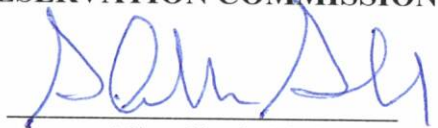
In general, the Commission rejects convenience over alteration or destruction of historic elements in the District. Once lost, or changed, the history represented is also partly lost and changed. The Guidelines counsel the Commission to use its discretion in balancing the competing needs present in the District, including public safety. Here, the balance is struck on the preservation of an important stone wall, admirably rebuilt, while the loss of two historic oaks still grieves. Given the age of the trees, their reasonable life expectancy is nearing the end. The trees lean precariously on a steep slope, over a well-traveled roadway. Public safety is clearly threatened by both the location of the wall and the location of the aging trees. Based on these facts, the Commission has determined that the proposed work is necessary; however, it must be mitigated with a landscape plan that replaces the lost trees and reflects the historic setting of the District. If an approved landscape mitigation plan is not implemented, the Approval granted herein is null and void. The landscape mitigation plan is necessary to ensure that the loss of the trees will not impair the historic and architectural value of the Property and the District.

For these reasons, and for the reasons identified in the Staff Report, and the reasons stated by the Commission, the Commission concludes that the proposed work will not impair the historic and architectural value of the surrounding area. The application complies with the Guidelines and standards applicable to the Ellicott City Historic District.

ORDER AND CERTIFICATE OF APPROVAL

Based on the foregoing Findings of Fact and Conclusions of Law, by a vote of 3 to 2, it is this 4th day of June, 2020, **ORDERED**, that the Applicant's request for a Certificate of Approval for exterior alterations to a stone retaining wall and remove two trees at the Subject Property, is **APPROVED, conditioned upon the implementation of an approved landscape plan.**

**HOWARD COUNTY HISTORIC
PRESERVATION COMMISSION**



Allan Shad, Chair



Eileen Tennor, Vice-Chair

OPPOSED

Drew Roth



Bruno Reich

OPPOSED

Erica Zoren

APPROVED for Form and Legal Sufficiency:

HOWARD COUNTY OFFICE OF LAW



Lewis Taylor
Senior Assistant County Solicitor

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER/CERTIFICATE OF APPROVAL MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR HOWARD COUNTY WITHIN THIRTY DAYS OF THE DATE OF THE DECISION.